



DEPARTMENT OF TRANSPORTATION  
MATERIALS TRANSPORTATION BUREAU  
WASHINGTON, D.C. 20590

49455

**49 CFR Parts 171, 172, 173, 176, 178**

[Docket No. HM-166A; Amdt. Nos. 171-49, 172-54, 173-131, 176-9, 178-56]

**Research and Special Programs Administration; Miscellaneous Amendments**

**AGENCY:** Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This action is being taken to incorporate into the Department's Hazardous Materials Regulations a number of changes based on rulemaking petitions from industry and from petitions within the Department. This action is necessary to update the regulations and to reduce MTB's backlog of rulemaking petitions.

**EFFECTIVE DATE:** August 23, 1979.

**FOR FURTHER INFORMATION CONTACT:** Darrell L. Raines, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, 400 7th Street, SW Washington, DC 20590, (202-426-2075).

**SUPPLEMENTARY INFORMATION:** On May 3, 1979, the Materials Transportation Bureau published a Notice of Proposed Rulemaking, Docket HM-166A, Notice No. 79-6 (44 FR 25886), which proposed a number of miscellaneous amendments to the hazardous materials regulations. Notice No. 79-6 included a brief statement regarding each proposal and invited public comment prior to the closing date of June 15, 1979. Based on comments received on this notice, these proposals are being incorporated as final amendments to the Hazardous Materials Regulations.

A total of seven comments were received on Notice No. 79-6. One commenter expressed approval of the new format which was used for the notice and his desire to see more of the proposals and final rules prepared in that same style. Two commenters requested that the word "opened" be deleted from the wording in § 173.7(a)(2) because some of the DOD packages must be opened for general inspection, condition of desiccant, electrical check test and various other reasons. In view of the above, MTB agrees that the word "opened" should be deleted in the amendment. One commenter supported

the deletion of "Empty cartridge case, primed" from § 172.101 and the deletion of the requirement for a Class C label for "Cannon primers; Cartridge cases, empty, primed; Combination primer; Grenade, empty primed; Percussion cap; Small arms primer." The Air Transport Association (ATA) of America commented on three separate items. First, they questioned the proposal to delete "Diisopropylethanolamine" from § 172.101. The ATA suggested that, prior to issuance of final rulemaking, corrosive testing be performed by an impartial testing laboratory to verify the results produced by the Pennwalt Corporation. Corrosion tests were conducted by an independent testing laboratory and the test results on file with MTB indicate that diisopropylethanolamine is not corrosive when tested in accordance with Appendix A of Part 173.

The second comment by ATA was in reference to the labeling requirements in § 172.101 for the commodities named in § 173.107(h). Their main concern appeared to be that the proposed action would establish international dual standards, by the difference to ICAO and IATA. The MTB believes that this change will cause less confusion because it will now clearly state that a Class C label is not required by 49 CFR. On the other hand, if a shipper feels that the Class C explosives in question may be offered for export, the Class C label can be applied (See 49 CFR 172.401(c).) This change will eliminate one of the ambiguities in 49 CFR. The third comment was in reference to the marking or tagging of the small samples of explosives being proposed under § 173.7(c). The marking or tagging will be on one of the inside "pouches" and is intended only as a warning to the individual opening the package.

The Union Carbide Corporation and the Hazardous Materials Advisory Council objected to the proposed change in § 171.8 that would revise the definition of "Hazardous Material" to read the same as in the Hazardous Materials Transportation Act. At the time the notice of proposed rulemaking was being prepared, it was believed that the proposed amendment was not controversial. Based upon Union Carbide Corporation's comments, and upon further considerations, the Bureau agrees that it is a controversial issue; therefore, the proposed change to § 171.8

has been withdrawn from this rulemaking.

Primary drafters of these amendments are Darrell L. Raines, Office of Hazardous Materials Regulation, Exemption and Regulations Termination Branch, and Evan C. Braude of the Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173, 176 and 178 are amended to read as follows:

**PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

1. In § 171.7 paragraph (c)(16) and (d)(16)(i) are revised to read:

**§ 171.7 Matter incorporated by reference.**

(c) \* \* \*  
(16) USDOE: United States Department of Energy, Washington, D.C. 20545. Regulations of the USDOE are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Other publications by the USDOE may be obtained from the National Technical Information Center, U.S. Department of Commerce, Springfield, Virginia 22151.

(d) \* \* \*  
(16) \* \* \*  
(i) USDC, USDOE Material and Equipment Specification No. SP-9, Rev. 1, and Supplement, is titled "Fire Resistant Phenolic Foam."

2. In § 171.15 the first sentence of the introductory text of paragraph (b) is amended to read:

**§ 171.15 Immediate notice of certain hazardous materials incidents.**

(b) Each notice required by paragraph (a) of this section shall be given to the Department by telephone (toll-free) on 800-424-8802.

**PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS**

3. § 172.101 is amended by deleting the entries "Diisopropylethanolamine," and "Empty cartridge case, primed." The Table is further amended by revising the following entries:

**§ 172.101 Hazardous materials table.**

§ 172.101 Hazardous Materials Table

| (1)           | (2)                                                        | (3)                | (4)                                  | (5)       |                       | Maximum net quantity in one package    |                     | (7)          |                  |                   |
|---------------|------------------------------------------------------------|--------------------|--------------------------------------|-----------|-----------------------|----------------------------------------|---------------------|--------------|------------------|-------------------|
|               |                                                            |                    |                                      | (a)       | (b)                   | (a)                                    | (b)                 | (a)          | (b)              | (c)               |
| */<br>w/<br>A | Hazardous materials descriptions and proper shipping names | Hazard class       | Labels(s) required (if not excepted) | Exception | Specific requirements | Passenger carrying aircraft or railcar | Cargo only aircraft | Cargo vessel | Passenger vessel | Other requirement |
|               | (change)<br>Cannon primers                                 | Class C explosives | None                                 | None      | 173.107               | 50 pounds                              | 150 pounds          | 1,3          | 5                |                   |
|               | Cartridge cases, empty, primed                             | Class C explosives | None                                 | None      | 173.107               | 50 pounds                              | 150 pounds          | 1,3          | 1,3              |                   |
|               | Combination primer                                         | Class C explosives | None                                 | None      | 173.107               | 50 pounds                              | 150 pounds          | 1,3          | 5                |                   |
|               | Grenade, empty, primed                                     | Class C explosives | None                                 | None      | 173.107               | 50 pounds                              | 150 pounds          | 1,3          | 1,3              |                   |
|               | Percussion cap                                             | Class C explosives | None                                 | None      | 173.107               | 50 pounds                              | 150 pounds          | 1,3          | 1,3              |                   |
|               | Small arms primer                                          | Class C explosives | None                                 | None      | 173.107               | 50 pounds                              | 150 pounds          | 1,3          | 1,3              |                   |

## **PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS**

4. In § 173.7 the introductory text of paragraph (a) is amended by adding the following sentence at the end of the paragraph; paragraph (c) is added to read:

### **§ 173.7 U.S. Government material.**

(a) \* \* \* Hazardous materials shipped by DOD under this provision may be reshipped by any shipper to any consignee provided the original packaging has not been damaged or altered in any manner.

(c) Shipments of explosive samples, not exceeding one gram net weight, offered by and consigned to the Bureau of Alcohol, Tobacco and Firearms (ATF) of the Department of the Treasury are not otherwise subject to the regulations in Parts 110-189 of this subchapter when placed in a specifically designed multi-unit assembly packed in a strong outside packaging. The packaging must be of a type accepted by ATF as capable of precluding a propagation of any explosion outside the packaging. The second component from the outside of the packaging must be marked or tagged to indicate the presence of an explosive.

5. In § 173.135 paragraph (a)(9) is revised to read:

**§ 173.135 Diethyl dichlorosilane, dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.**

(a) \* \* \*

(9) Specification MC 300, MC 303, MC 304, MC 306, MC 307, MC 330 or MC 331 (§§ 178.340, 178.341, 178.342, 178.337 of this subchapter). Tank motor vehicles having cargo tanks of steel or stainless steel construction. Bottom outlets, if any, must be equipped with valves conforming with § 178.342-5(a) of this subchapter.

6. In § 173.245b paragraph (a)(6) is revised to read:

**§ 173.245b Corrosive solids not specifically provided for.**

(a) \* \* \*

(6) Plastic drum or pail not exceeding 95 pounds net weight and not over 7-gallon capacity.

7. In § 173.247 paragraph (a)(12) is revised to read:

**§ 173.247 Acetyl bromide; acetyl chloride; acetyl iodide; antimony pentachloride; benzoyl chloride; boron trifluoride acetic acid complex; chromyl chloride; dichloroacetyl chloride; diphenylmethyl bromide solutions; pyrosulfuryl chloride; silicon chloride; sulfur chloride (mono and di); sulfuryl chloride; thionyl chloride; tin tetrachloride (anhydrous); titanium tetrachloride; trimethyl acetyl chloride.**

(a) \* \* \*

(12) Specification MC 310, MC 311, MC 312, MC 330 or MC 331 (§§ 178.343, 178.337 of this subchapter). Tank motor vehicles.

8. In § 173.1080 paragraphs (a)(5) and (a)(6) are revised; paragraph (a)(7) is added to read:

### **§ 173.1080 Sulfur.**

(a) \* \* \*

(5) Sift-proof paper-lined burlap bag;  
(6) Sift-proof rail car; or  
(7) Sift-proof or lined freight container.

## **PART 176—CARRIAGE BY VESSEL**

9. In § 176.30 the first sentence of the introductory text of paragraph (a) is amended; paragraph (c) is revised to read:

### **§ 176.30 Dangerous cargo manifest.**

(a) The carrier, its agents, and any person designated for this purpose by the carrier or agents shall prepare a dangerous cargo manifest, list, or stowage plan.

(c) The carrier and its agents shall insure that the master, or a licensed deck officer designated by the master and attached to the vessel, or in the case of a barge, the person in charge of the barge, acknowledges the correctness of the dangerous cargo manifest, list or stowage plan by his signature.

10. In § 176.39 the first and last sentence of paragraph (a) are amended; paragraph (c) is revised to read:

### **§ 176.39 Inspection of cargo.**

(a) *Manned vessels.* The carrier, its agents, and any person designated for this purpose by the carrier or agents shall cause an inspection of each hold or compartment containing hazardous materials to be made after stowage is complete, and at least once every 24 hours thereafter, weather permitting, in order to ensure that the cargo is in a safe condition and that no damage caused by shifting, spontaneous heating, leaking, sifting, wetting, or other cause has been sustained by the vessel or its cargo since loading and stowage.

The carrier, its agents, and any person designated for this purpose by the

carrier or agents shall cause an entry to be made in the vessel's deck log book for each inspection of the stowage of hazardous materials performed.

(c) The carrier, its agents, and any person designated for this purpose by the carrier or agents of each ocean-going vessel carrying hazardous material shall, immediately prior to entering a port in the United States, cause an inspection of that cargo to be made.

## **PART 178—SHIPPING CONTAINER SPECIFICATIONS**

11. In § 178.83, § 178.83-11 paragraph (a)(4) is added to read:

**§ 178.83 Specification 5C; steel barrels or drums.**

### **§ 178.83-11 Marking.**

(a) \* \* \*

(4) Tare weight in pounds preceded by the letters "TW" (for example TW121), except marking may be either embossed or stamped.

12. In § 178.120, the introductory text of paragraph (a) and paragraph (f) in § 178.120-2 are revised to read:

**§ 178.120 Specification 20PF phenolic-foam insulated, metal overpack.**

### **§ 178.120-2 Materials of construction and other requirements.**

(a) Phenolic foam insulation must be fire-resistant and fabricated in accordance with USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, which is a part of this specification. (Note: Packagings manufactured under USAEC Specification SP-9 and Rev. 1 thereto are authorized for continued manufacture and use.) A 5.4-inch (13.7 centimeter) minimum thickness of foam must be provided over the entire liner except:

(f) *Waterproofing*—Each screw hole in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with waterproofing material as prescribed in USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, or equivalent.

13. In § 178.121 the introductory text of paragraph (a) and paragraph (g) in § 178.121-2 are revised to read:

**§ 178.121 Specification 21PF fire and shock resistant, phenolic-foam insulated, metal overpack.**

\* \* \* \*

**§ 178.121-2 Materials of construction and other requirements.**

(a) Phenolic foam insulation must be fire resistant and fabricated in accordance with USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, which is a part of this specification. (Note: Packagings manufactured under USAEC Specification SP-9, and Rev. 1 thereto are authorized for continued manufacture and use.) A 5.5-inch (14 centimeter) minimum thickness of foam must be provided over the entire liner except where:

\* \* \* \*

(g) *Waterproofing*—Each screw hole

in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with waterproofing material as prescribed in USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, or equivalent.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1.)

**Note.**—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on August 17, 1979.

**L. D. Santman,**

*Director, Materials Transportation Bureau.*

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